

NOW COMES, The University of North Texas, The University of North Texas System, Neal Smatresk, President of the University of North Texas, and Shannon Goodman, Vice President for Enrollment of the University of North Texas (collectively “Defendants”), the Defendants herein, pursuant to 28 U.S.C. §§ 1441 and 1446, and give notice that it hereby removes the case styled *Young Conservatives of Texas Foundation v. The University of North Texas, The University System of North Texas, Neal Smatresk, President of the University of North Texas, and Shannon Goodman, Vice President of Enrollment of the University of North Texas*, Cause No. 20-9524-442, filed in the 442nd Judicial District Court of Denton County, Texas (the “State Court Action”). As grounds for removal, the Defendants respectfully state the following:

THE STATE COURT ACTION

1. On November 16, 2020, Plaintiff the Young Conservatives of Texas Foundation (“Plaintiff”) initiated the State Court Action by filing its Original Petition (“Petition”) in the 442nd Judicial District Court of Denton County, Texas, The Honorable Tiffany Haertling, 1450 McKinney Street 4th Floor, Denton, Texas 76209. No jury trial has been requested at this time.

2. Defendants were served on November 23, 2020. This removal is timely because this Notice is being filed within 30 days of service on Defendants. *See* 28 U.S.C. § 1446. All defendants consent and join in the removal of this case to federal court. 28 U.S.C. § 1446(b)(2)(A).

3. Defendants submit this Notice of Removal without waiving any defenses to the claims asserted by Plaintiff, without conceding that Plaintiff has pled claims upon which relief can be granted, and without admitting that Plaintiff is entitled to any monetary or equitable relief whatsoever (or that the damages it seeks may be properly sought).

REQUIREMENTS FOR REMOVAL

4. In accordance with 28 U.S.C. § 1446(a) and Local Rule CV-81, Defendants attach the following to its Notice of Removal:

- Exhibit A: Index of all matters filed in the State Court Action that clearly identifies each document and indicates the date the document was filed and a civil cover sheet and certified copy of the state court docket sheet.
- Exhibit B: Copies of all process and pleadings in the State Court Action, individually tabbed and arranged in order of filing under tabs 1 through 8.
- Exhibit C: List of all counsel of record.
- Exhibit D: Certificate of Interested Parties

BASIS FOR REMOVAL – FEDERAL QUESTION

5. Plaintiff's claims against Defendants arise under Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA" and codified as 8 U.S.C § 1623) as applied to Texas Education Code Section 54.051(D). Specifically, Plaintiff alleges federal law, via Section 1623, preempts state law. Section 1623(a) provides:

Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

8 U.S.C § 1623. By implicating Section 1623, Plaintiff directly invokes this Court's federal question jurisdiction. In fact, the entire basis for Plaintiff's claims require Section 1623's interpretation. Pl.'s Pet. at ¶¶ 9-38. Thus, this Court has original jurisdiction over Plaintiff's claims arising under the IIRIRA pursuant to 28 U.S.C. § 1331, and this case is removable to this Court as a district and division embracing the place where this action is pending under 28 U.S.C. § 1441(a).

6. Because Plaintiff alleges state law causes of action that form part of the same case or controversy, this Court has supplemental jurisdiction over those state law claims under 28 U.S.C. § 1367.

VENUE

7. Venue is proper in this district under 28 U.S.C. §1441(a) because this district and division embrace the place in which the removed action has been pending.

NOTICE

8. Defendants have provided written notice of the filing of this Notice of Removal to all parties in this action and are filing a copy of this Notice of Removal with the clerk of the state court where the action is pending pursuant to 28 U.S.C. §1446(d).

PRAYER

WHEREFORE, Defendants hereby remove the case styled *Young Conservatives of Texas Foundation v. The University of North Texas, The University System of North Texas, Neal Smatresk, President of the University of North Texas, and Shannon Goodman, Vice President of Enrollment of the University of North Texas*, Cause No. 20-9524-442, filed in the 442nd Judicial District Court of Denton County, Texas to the United States District Court for the Eastern District of Texas, Sherman Division, so that this Court may assume jurisdiction over the cause as provided by law.

Respectfully submitted,

By: /s/Andy Taylor

Andy Taylor

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Notice of Removal has been served upon the following on this the 23rd day of December, 2020:

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